O1-21-00627-CV
FIRST COURT OF APPEALS
HOUSTON, TEXAS
2/9/2022 6:15 PM
CHRISTOPHER PRINE

### IN THE 1ST COURT OF APPEALS, HOUSTON, TX

MICHAEL W. GIOFFREDI	)	FILED IN 1st COURT OF APPEALS HOUSTON, TEXAS
	)	2/9/2022 6:15:37 PM
Plaintiff,	)	CHRISTOPHER A. PRINE Clerk
v.	)	Case No. 01-21-00627-CV
	)	
THE RETREATE AT RIVERSTONE,	)	
	)	
Defendant	)	
	)	

#### REQUEST FOR SUPPLEMENTAL REPORTER'S RECORD OR NEW TRIAL

In regards to the Reporter's Record, the transcript is missing my exhibit which I designated to be included, namely the video Plaintiff Exhibit 116 played in court on October 6, 2021. I request under Tex. R. App. P. 34.6(d) that the appellate court direct the court reporter to prepare, certify, and file in the appellate court a supplemental reporter's record containing this omitted item. I have already made this request myself in writing.

The court reporter has stated that "Exhibit 116 was never offered or admitted into evidence; therefore, it was never in my possession." Under Tex. R. App. P. 34(f) "appellant is entitled to a new trial" (2) "if, without the appellant's fault, a significant exhibit or a significant portion of the court reporter's notes and records has been lost or destroyed". This exhibit, and all other video exhibits, were provided to the court clerk by email, and on a usb drive by request of the court clerk, on and before Jul 19, 2021. If Plaintiff Exhibit 116 has been lost or destroyed, then I request, and am entitled to, a new trial.

/s/ Michael W. Gioffredi, 2/9/2022

Michael W. Gioffredi

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# **CERTIFICATE OF SERVICE**

I certify that on 2/9/2022, a true and correct copy of this document properly was served to the following parties and respective counsel of record in accordance with the Texas Rules of Civil Procedure via email:

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## **Automated Certificate of eService**

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Associated Case Party: MichaelWGioffredi

Name	BarNumber	Email	TimestampSubmitted	Status
Michael WGioffredi		MichaelGioffredi@gmail.com	2/9/2022 6:15:37 PM	SENT

Associated Case Party: A'drianna Higginbotham

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A'drianna Higginbotham		adrianna@fultonstrahan.com	2/9/2022 6:15:37 PM	SENT

Associated Case Party: The Retreat at Riverstone

Name	BarNumber	Email	TimestampSubmitted	Status
Kelli Ashcraft		riverstone@allied-orion.com	2/9/2022 6:15:37 PM	SENT